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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

J. H. Repencher
Proc. I

FILE: B-191443

DATE: March 31, 1978

MATTER OF: Westwood Pharmaceuticals Inc.

DIGEST:

Where protester permits over 5 months to elapse between initial protest filing with contracting activity and time of protest filing with GAO, notwithstanding facts that activity never replied to original protest and contract had been awarded and was presumably being performed, protester did not diligently pursue protest and filing with GAO is consequently untimely and not for consideration.

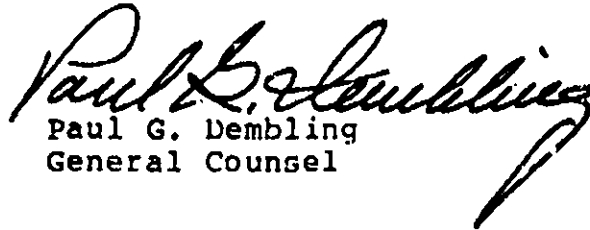
By letter of March 6, 1978, received by our Office on March 10, Westwood Pharmaceuticals Inc. (Westwood) protests the award of a contract to another firm by the Defense Personnel Support Center (DPSC), Defense Logistics Agency, under solicitation No. ARM77173000005 on the basis that that firm's offered product did not meet the pertinent specifications. By letter of September 16, 1977, Westwood protested on the same basis to the Defense Medical Material Board, apparently the using agency. On October 4, 1977, Westwood received a notice from the DPSC that award had been made to that firm. By letter of the same date, Westwood protested the award to the contracting activity. Westwood advises that as of March 6, 1978, it has received no response on its protest from the contracting activity.

We do not believe that it can be said that Westwood diligently pursued its protest of this matter since, notwithstanding the facts that a contract had been awarded, and was presumably being performed, it allowed over 5 months to elapse before it followed up on its protest.

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of October 4. In view of this lack of diligent pursuit, we must consider the protest as untimely filed and not for our consideration. Graphics Communications Systems, Inc., B-180715, July 23, 1976, 76-2 CPD 75.

Notwithstanding the above, we are sending the head of the DPSC a copy of Westwood's letter to our Office informing him of its unanswered protest.


Paul G. Dembling
General Counsel